



SCOTTSDALE BOARD OF ADJUSTMENT
7506 E. Indian School Road
The Community Design Studio
July 7, 2004
6:00 PM
APPROVED MINUTES

PRESENT: James Vail, Chair
Terry Kuhstoss, Vice Chair
Jennifer Goralski, Board Member
Ernest Jones, Board Member
Howard Myers, Board Member
Carol Perica, Board Member
Neal Waldman, Board Member

STAFF: Donna Bronski
Kurt Jones
Al Ward
Frances Cookson

CALL TO ORDER

The regular meeting of the Scottsdale Board of Adjustment was called to order by Chair Vail at 6:05p.m.

ROLL CALL

A formal roll call confirmed members present as stated above.

APPROVAL OF MINUTES

1. [June 2, 2004](#)

Commissioner Myers moved to approve the June 2, 2004 minutes as presented. Vice Chair Kuhstoss seconded the motion.

CHAIR VAIL requested the following corrections: Change the spelling from Earnest to Ernest for Commissioner Jones, and add to Chair Vail's comments on page 3: "after learning that the distance between the two homes would be 19 feet instead of the 20 feet required by the code, he stated he would be in support of the variance request".

Vice Chair Kuhstoss moved to approve the minutes as amended. Commissioner Myers seconded the motion. The minutes were approved as amended by a vote of seven (7) to zero (0).

CONTINUANCES

2. [9-BA-2004](#) Hayden Lofts, a variance from Article V. Section 5.1004 E.1 regarding setback requirements, Article V. Section 5.1004C.2 regarding building height requirements and from Article X, Section 10.602.A.2. regarding the required landscape buffer on a parcel located at 2322 N. Hayden Road. With Multi-Family Residential (R-5) zoning.

Vice Chair Kuhstoss moved to continue agenda item 9-BA-2004 to August 4, 2004. Commissioner Jones seconded the motion. The motion passed unanimously by a vote of seven (7) to zero (0).

CONSENT AGENDA

3. Bylaw Changes

CHAIR VAIL noted that the changes had been discussed during the Study Session and asked for further comments. Hearing none, Chair Vail called for the vote.

Vice Chair Kuhstoss moved to approve the Bylaw changes as presented. Commissioner Myers seconded the motion. The motion passed unanimously by a vote of seven (7) to zero (0).

REGULAR AGENDA

4. [10-BA-2004](#) Sweinhagen/Herbig Residence, a variance from Article V. Section 5.204 E.2 and 5.204.F.2 regarding side yard setback requirements and the distance between main buildings on adjacent lots, on a parcel located at 132 E. Cholla Street with Single Family residential (R1-35) zoning.

MR. WARD presented this case per the staff packet. He noted that one letter of support had been received and several requests for additional information. Mr. Ward stated that there had been no objections to this agenda item. He noted that the residence was built in the County and annexed in 1962, and that the seven-foot side yard was allowed under the County zoning requirements. He added that the builder had placed the house as far back from Scottsdale Road as possible to maintain maximum setback. Mr. Ward stated staff's conclusion that alternative

floor plans were available to accommodate the desired expansion and comply with the side yard requirements.

COMMISSIONER PERICA requested clarification as to the alternatives suggested by staff. Mr. Ward noted that the front and rear yard areas allowed for expansion.

CHAIR VAIL inquired as to the 30-foot requirement between the two residences, noting the 22-foot existing separation. He asked if the requirement came into play as a result of the additional encroachment into the side yard setback. Mr. Ward replied in the affirmative, and stated that the existing 22-foot separation would remain unchanged.

MR. SWEINHAGEN addressed the Board. He stated that the application was submitted in order to modernize the home built in the 1960s. He explained that the proposed plan was the only option that would maintain the ranch style design, the roofline, and continuity of the interior floor plan.

MR. SWEINHAGEN responded to Board Member questions.

CHAIR VAIL noted that there were no comment cards and no members of the public present to speak on this agenda item.

COMMISSIONER WALDMAN inquired as to the possibility of utilizing the front of the house for the bathroom and closet. Mr. Sweinhagen replied that such a floor plan would place the bathroom and closet between the front of the house and the bedroom, would not allow for a bedroom window to the front, and would result in an awkward configuration.

COMMISSIONER JONES commented that the changes proposed by the applicant appeared to him to be positive.

COMMISSIONER MYERS referred to criteria number two and four, and stated that, in his view, they had not been satisfied.

COMMISSIONER GORALSKI stated that, in her opinion, three of the four criteria had not been met, and therefore could not support the variance.

COMMISSIONER PERICA commented that she felt that the four criteria had been met, although perhaps not as definitively as the Board would like. She noted that the applicant was maintaining the 7-foot setback and the 22 feet as it exists, and would support the variance.

VICE CHAIR KUHSTOSS stated that she would not support the variance, as the additional 7-foot encroachment would be visually disruptive. She noted that there was ample room to utilize additional footage to the front or rear of the home for the expansion and stated that none of the four criteria had been met.

CHAIR VAIL expressed concern with regard to the extra 7 1/2-feet, but noted that the problem was mitigated by the fact that 7 1/2 feet already exists. He observed that the existing wall already obstructs the view and that the additional 7 1/2 feet would thus not affect that view. He indicated support of the variance.

VICE CHAIR KUHSTOSS MOVED TO DENY THE VARIANCE REQUEST IN ITS ENTIRETY. COMMISSIONER MYERS SECONDED THE MOTION. THE MOTION FAILED BY A VOTE OF THREE (3) TO FOUR (4), WITH COMMISSIONERS PERICA, JONES, WALDMAN AND CHAIR VAIL VOTING "NAY."

COMMISSIONER PERICA MOVED TO SUPPORT THE VARIANCE. COMMISSIONER WALDMAN SECONDED THE MOTION. THE MOTION PASSED BY A VOTE OF FOUR (4) TO THREE (3), WITH VICE CHAIR KUHSTOSS, AND COMMISSIONERS GORALSKI AND MYERS VOTING "NAY."

ADJOURNMENT

With no further business to discuss, the regular meeting of the Scottsdale Board of Adjustment was adjourned at 6:40 PM.

Respectfully submitted,

"For the Record" Court Reporters